

MEMORANDUM

TO: Service List in Boston Edison Company, D.T.E. 01-78 (Phase II)

FROM: William H. Stevens, Jr., Hearing Officer

RE: Request for Company to File Redacted Documents

DATE: July 26, 2002

CC: Mary Cottrell, Secretary

On July 11, 2002 Boston Edison Company ("BECo" or "Company") filed with the Department of Telecommunications and Energy ("Department"), a Motion for Protective Order With Respect to Response to Attorney General Information Request IR-AG-2-12 in the above-captioned proceeding ("Motion"). The Company seeks confidential treatment of all documents submitted in response to the Attorney General's information request, AG-IR-2-12 (Motion at 1, 3). These documents include: (1) the Power Supply Agreement executed by the Company and its supplier ("Agreement") (IR-AG-2-12 (Att. 1)); (2) the Request for Proposals ("RFP") wherein the Company solicited offers for electric power supply required to meet the Company's standard offer and wholesale service requirements (IR-AG-2-12 (Att. 2)); and (3) the identity of those entities identified by the Company in its RFP (IR-AG-2-12 (Att. 3) (id.)). The Company did not file any redacted responses for the public record.

The Department has previously informed BECo that:

A distribution company, in its request for confidentiality, must substantiate why such a request meets the requirements of G.L. c. 25, § 5D. A mere recitation that a particular document is "competitively sensitive" or otherwise confidential is insufficient to meet that burden of proof.

Standard of Review for Electric Contracts, D.P.U. 96-39-A, at 3 (Letter Order to BECo (October 27, 1998)).

In prior BECo requests for confidentiality in similar transition cost reconciliation proceedings, the Company filed redacted documents (e.g., power supply agreements) for the public record, and the Department granted confidential treatment of only specifically identified

unredacted terms. Boston Edison Company, D.T.E. 99-107 (Phase II) (AG-IR-4-4 (supp.), AG-RR-5 (supp.)) (2000); Boston Edison Company, D.T.E. 98-111 (Phase II), at 3, n. 5 (Exh. AG-4-10; Exh. DOER-1) (1999). The public documents in D.T.E. 99-107 (Phase II) and D.T.E. 98-111 (Phase II) include provisions that are so general that they could not be “competitively sensitive, confidential and proprietary.”

I find that the Company did not meet its burden to justify or articulate the need for confidentiality for the entire documents for which BECo requests confidential protection. I conclude that BECo has not yet overcome the G.L. c. 66, § 10, statutory presumption that all such information is public information by proving the need for non-disclosure of the entire documents. See G.L. c. 25, § 5D. I decline to rule on the Motion at this time. Instead, I request that BECo supplement the Motion and file redacted copies for the public record no later than August 9, 2002. Otherwise, the Motion will be denied.